

Editor's note: Overruled to the extent inconsistent with Harvey A. Clifton, 60 IBLA 29 (Nov. 16, 1981)

WILLENE MINNIER

IBLA 79-312

Decided January 8, 1980

Appeal from decision of the Oregon State Office, Bureau of Land Management, declaring mining claims abandoned and void. OR MC 0821 (Wash) through OR MC 0826 (Wash).

Affirmed.

1. Federal Land Policy and Management Act of 1976: Assessment Work
-- Mining Claims: Abandonment -- Mining Claims: Assessment Work

Where the owner of an unpatented mining claim located prior to Oct. 21, 1976, fails to file an affidavit of assessment work or notice of intention to hold the claim on or before Dec. 31 of the calendar year following the calendar year in which the claim was recorded in the BLM office, the claim is properly deemed conclusively to have been abandoned.

2. Notice: Generally -- Regulations: Generally

All persons dealing with the Government are presumed to have knowledge of duly promulgated regulations.

APPEARANCES: Willene Minnier, pro se.

OPINION BY ADMINISTRATIVE JUDGE BURSKI

Willene Minnier has appealed from a decision, dated March 20, 1979, of the Oregon State Office, Bureau of Land Management (BLM), holding mining claims OR MC 0821 (Wash) through OR MC 0826 (Wash) void for failure to timely file an affidavit of assessment work or notices of intention to hold the claims as required by section 314 of the Federal Land Policy and Management Act of 1976 (FLPMA), and the pertinent regulations 43 CFR 3833.201(b) and 3833.4.

The mining claims were located at various dates in 1974, 1975 and 1976. ^{1/} Copies of the location notices were filed with the State Office on February 28, 1977. Therefore, the annual affidavit of assessment work was due on or before December 31, 1978. The decision appealed from states that "[y]our 1978 assessment statement (proof of labor), received on February 26, 1979, was not filed in this office prior to December 31, 1978 * * *" (Emphasis added).

[1] Section 314(a)(1) and (2) of FLPMA, and the pertinent regulation, 43 CFR 3833.2-1(a)(1), require that the owner of an unpatented mining claim located prior to October 21, 1976, shall, prior to December 31 of each year following the calendar year in which the claim was recorded, file with the proper BLM office evidence of annual assessment work performed during the previous assessment year or a notice of intention to hold the mining claim. Failure to file the required instruments is deemed conclusively to constitute an abandonment of the mining claim. Section 314(c), supra; 43 CFR 3833.4(a).

FLPMA and its implementing regulations mandate the consequences of failure to file. This Board has repeatedly held that when the recordation requirements are not met the mining claims must be deemed abandoned and void. Charles and Pete Caress, 41 IBLA 302 (1979); Nuclear Power and Energy Co., 41 IBLA 142 (1979); Al Sherman 38 IBLA 300 (1978); Ronald L. Nordwick, 36 IBLA 238 (1978); Paul S. Coupey, 35 IBLA 112 (1978).

[2] Appellant states in his statement of reasons: "Bureau of Land Management regulations of assessment filing are new and an oversight could occur in early compliance with them by miners holding the claims" (Emphasis in original). All persons dealing with the Government are presumed to have knowledge of relevant statutes and duly promulgated regulations. 44 U.S.C. §§ 1507, 1510 (1970); Federal Insurance Corp. v. Merrill, 332 U.S. 380 (1947); Donald H. Little, 37 IBLA 1 (1978).

^{1/} The State Office numbers and location dates of the mining claims are: OR MC 0821
November 28, 1974

OR MC 0822	July 4, 1974
OR MC 0823	July 4, 1974
OR MC 0824	April 1, 1975
OR MC 0825	April 1, 1975
OR MC 0826	August 1, 1976

Therefore, pursuant to the authority delegated to the Board of Land Appeals by the Secretary of the Interior, 43 CFR 4.1, the decision appealed from is affirmed.

James L. Burski
Administrative Judge

We concur:

Joan B. Thompson
Administrative Judge

Douglas E. Henriques
Administrative Judge

